

**2005 – 2007 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT**

**AGENCY:** 0710 DHS – Administrative Services

**ACT#:** 27-1SS

**SECTION#:** 15

**CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)**

**EXECUTIVE RECOMMENDATION**

EXTRA SALARIES. There is hereby authorized for the Department of Human Services for the ~~2003-2005~~ 2005-2007 biennium the following increases in salaries for certain positions provided in the regular salary schedule of the Department of Human Services and to be in addition to the annual amounts as established by the Uniform Classification and Compensation Act, as amended: for full-time physicians certified by the American Specialty Boards, a rate of pay not to exceed an additional \$4,500 per year; for each full-time physician eligible to be certified by the American Specialty Boards, a rate of pay not to exceed \$2,500 per year. If a physician is certified in Child Psychiatry, an additional \$2,500 per year will be allowed with the total not to exceed \$7,000. If a physician is certified in Forensic Psychiatry, an additional \$2,500 per year will be allowed with the total not to exceed \$7,000. In the event the physician is not a full-time employee, the amount specified herein shall be adjusted proportionately to the amount of time worked for the Department of Human Services by that physician.

The provisions of this section shall be in effect only from July 1, ~~2003~~ 2005 through June 30, ~~2005~~ 2007.

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HUMAN SERVICES RENOVATION FUND. Department of Human Services Renovation Fund.

(a) There is established on the books of the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the Department of Human Services Renovation Fund.

(b) This fund shall be used for constructing, acquiring, renovating, maintaining, repairing, and equipping facilities of the Department of Human Services and for paying disallowances by the federal government.

(c) The fund shall consist of:

(1) Federal reimbursement received by the Department of Human Services and deposited in the various fund accounts of the department; and

(2) General revenues transferred from the Division of Youth Services, the Division of Mental Health Services, and the Division of Developmental Disabilities Services for the purposes of repairing, renovating, equipping, acquiring and constructing Department of Human Services facilities with an annual maximum of five million dollars (\$5,000,000). The projects for which these transfers are authorized must be projects which were unanticipated during the preceding regular session of the Arkansas General Assembly and must be projects which, if not carried out in the interim period between regular sessions of the Arkansas General Assembly would cause greater harm to the facilities,

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clients or programs of the Department of Human Services than to wait until the next regular session.

(3) Other non-general revenue funds as may be available within the Department of Human Services that can be used for the purposes of this fund.

(d) At the request of the Director of the Department of Human Services, and upon certification of the availability of such funds, the Chief Fiscal Officer of the State shall initiate the necessary transfer documents to reflect the transfer on the books of record of the Treasurer of State, the Auditor of State, the Chief Fiscal Officer of the State, and the Department of Human Services. The Director of the Department of Human Services shall submit any transfer plan to and must receive approval of the plan from the Chief Fiscal Officer of the State, the Governor and the Arkansas Legislative Council prior to the effective date of the transfer.

(e) Provided, that any non-general revenue funding that may remain in the fund at the end of any fiscal year shall be carried over into the next fiscal year and all obligated general revenue funding that may remain in the fund at the end of any fiscal year shall be carried over into the next fiscal year to satisfy such legal and contractual obligations that have been entered into prior to the end of the fiscal year.

(f) Determining the amount of funds appropriated to a state agency is the prerogative of the General Assembly and is usually accomplished by delineating specific line items and by identifying the

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appropriation and funding attached to that line item. The General Assembly has determined that the Department of Human Services could be operated more efficiently if some flexibility is given to that agency. That flexibility is being accomplished by providing transfer authority in subsection (d) of this section, and since the General Assembly has granted the agency broad powers under the transfer authority concept, it is both necessary and appropriate that the General Assembly maintain oversight of the utilization of the transfer authority by requiring prior approval of the Legislative Council in the utilization of this transfer authority. Therefore, the requirement of approval by the Legislative Council is not a severable part of this section. If the requirement of approval by the Legislative Council is ruled unconstitutional by a court jurisdiction, this entire section is void.

The provisions of this section shall be in effect only from July 1, ~~2003~~ 2005 through June 30, ~~2005~~ 2007.

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TRANSFER AUTHORITY. The Director of the Department of Human Services shall have transfer authority provided by the following:

(a) DEPARTMENT OF HUMAN SERVICES RENOVATION FUND.

The Director of the Department of Human Services is authorized to request fund transfers according to the provisions established by Arkansas Code Ann. 19-5-1020, Department of Human Services Renovation Fund, as amended herein; and

(b) MATCH TRANSFER. The Director of the Department of Human Services, with the approval of the Chief Fiscal Officer of the State, is authorized to effect inter-agency and inter-divisional fund transfers for the purpose of providing the State's matching share for payments made to that Division or Office or its service providers for services eligible for federal reimbursement under programs administered by the Department of Human Services. The Department of Human Services shall report to the Legislative Council or Joint Budget Committee on a quarterly basis all fund transfers made in accordance with the authority granted by this section; and

(c) YOUTH SERVICES - HOUSING AND SEPARATION APPROPRIATION PROVISIONS. The Division of Youth Services (DYS) is authorized to fulfill its responsibility to house offenders between the ages of 18 and 21 and to separate juvenile offenders by age and seriousness of offense by either employing additional state employees and providing the corresponding operating expenses or entering into professional

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services contracts. If the Division of Youth Services determines that the Division needs to employ state employees to fulfill the housing and separation requirements, they may transfer up to the total amount appropriated for the ~~DYS - Offender Housing and Separation~~ Residential Program appropriation to the ~~appropriate \_\_DYS appropriation and line items~~ Administration Program, upon approval of the Chief Fiscal Officer of the State, and prior review by the Legislative Council.

(d) REALLOCATION OF RESOURCES: (1) Upon determination by the Director of the Department of Human Services that a reallocation of resources within the department is necessary for the efficient and effective operation of the department, the director, with approval of the Governor, shall have the authority to request, from the Chief Fiscal Officer of the State, a transfer of positions, appropriations, line item appropriations, and funds within or between existing and newly created divisions, offices, sections, or units of the department. Provided, however, that no transfer of funds or appropriation that provides direct support or matching support for the Arkansas Medicaid Program shall be made to any other fund account or appropriation that does not directly support the Arkansas Medicaid Program. Further, no positions, funds, or appropriation authorized during the ~~2003-2005~~ 2005-2007 biennial budget process for the Division of Children and Family Services compliance with initiatives established under the Angela R. consent decree shall be transferred to any other division. Nothing in this provision is intended to prevent the one-time transfers of savings in any

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other program to the Arkansas Medicaid Program, with the exception of the provisions previously cited for the Division of Children and Family Services – Angela R. consent decree. The Division of Developmental Disabilities – Grants to Community Providers line item of the Developmental Disabilities Services - Grants-in-Aid appropriation may not be decreased. The appropriation, funding, and positions provided for the six Human Development Centers shall remain at a level sufficient to ensure quality care for the Centers' residents. If requested by the Division of Child Care and Early Childhood Education (DCCECE), the Division of County Operations shall transfer sufficient general revenue to allow the State to access the full allocation of Federal Funds available through the Matching Category of the Child Care Development Fund. General Revenue Dollars transferred to DCCECE must be used as matching funds to support the Transitional Employment Assistance (TEA) Program and must be eligible to be counted toward the State's Maintenance-of-Effort requirement for the Temporary Assistance for Needy Families (TANF) Block Grant. The exemptions provided in this subsection whereby certain DHS Programs and Divisions are protected from appropriation, fund, or position transfers are applicable only to the reallocation or transfer authority granted herein, and not by any reductions which are applicable to all state programs.

The Director of the Department of Human Services shall submit any requests for transfers to and must receive approval of the requests for transfers from the Chief Fiscal Officer of the State, the Governor, and

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the Arkansas Legislative Council prior to the effective date of the transfers. Provided, however, that the Department of Human Services shall be limited to submitting no more than four requests for reallocation of resources transfers during any fiscal year. Transfer authority for unforeseen purposes shall further be limited to no more than 5% of the total appropriation, funding, and positions authorized for the Department. Reallocation of resources transfers may include multiple items but shall be limited to the following purposes:

- i). Medicaid Program
- ii). Facilities and institutions costs, including operational expenses and Construction/Renovation/Equipping expenses
- iii). Departmental grants and contracts
- iv). Court ordered settlements and payments
- v). Payment of administrative expenses, including but not limited to, overtime and other costs of personnel for critical services or functions necessary to carry out the mission of the agency
- vi). Restructuring efforts as deemed necessary to comply with federal or state mandates

Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to



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the Revenue Stabilization law. Further, the General Assembly has determined that the Department of Human Services may operate more efficiently if some flexibility is provided to the Department of Human Services authorizing broad powers under the Reallocation of Resources provisions herein. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

(2) If it is determined that the requested reallocation of resources transfers should be made, the Chief Fiscal Officer of the State shall then initiate the necessary transfer documents to reflect the transfers upon the fiscal records of the Treasurer of State, the Auditor of State, the Chief Fiscal Officer of the State, and the Department of Human Services. In addition, the Chief Fiscal Officer of the State, together with the Co-Chairpersons of the Legislative Council or Joint Budget Committee, may approve, on an emergency basis, requests for utilization of this Section without prior approval of the Arkansas Legislative Council, with any such actions reported at the next meeting of the Arkansas Legislative Council.

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